

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

PHILIPS NORTH AMERICA LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 3:22-CV-0147-B
	§	
IMAGE TECHNOLOGY	§	
CONSULTING, LLC et al.,	§	
	§	
Defendants.	§	


ORDER

Before the Court is the Magistrate Judge’s Findings, Conclusions, and Recommendation to grant in part Plaintiff Philips North America LLC’s Motion to Strike Defendants’ Image Technology Consulting, LLC and Marshall Shannon’s (“Defendants”) Affirmative Defense (Doc. 179). Having reviewed the pleadings, the briefing, the Recommendation, and the applicable law, this Court adopts the Recommendation almost in its entirety. The Court adopts the Recommendation **GRANTING** the Motion to Strike the following defenses: waiver, estoppel, laches, copyright invalidity, copyright misuse, essential step, and “reservation of rights.” The Court also adopts the Recommendation **DENYING WITHOUT PREJUDICE** the Motion to Strike the defenses of failure to mitigate, copyright preemption, payment/license, and statute of limitations. The Court rejects the Recommendation denying without prejudice the Motion to Strike the illegality defense because as pled, the defense is insufficient under *Woodfield v. Bowman*, 193 F.3d 354, 362 (5th Cir. 1999). Absent any indication as to how Philips’ conduct is illegal, Philips can only guess what Defendants’ position is—this is not fair notice. *Cf. Blount v. Johnson Controls, Inc.*, 328 F.R.D. 146, 152 (S.D. Miss.

2018). Thus, the Court **GRANTS** the Motion as to the illegality defense. Defendants may file an amended pleading as to waiver, estoppel, laches, and illegality defenses within 14 days of this order.

SO ORDERED.

SIGNED: June 10, 2024.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE